

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2020 DEC 23 PM 1:54

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ROBERT E. SNELGROVE,

Plaintiff,

v.

HERMAN LeBLANC,

Defendant.

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Case No. **5**:20-v-148

ORDER ACCEPTING REPORT AND RECOMMENDATION
(Docs. 2, 3)

The Magistrate Judge issued a Report and Recommendation (R&R) on November 5, 2020. (Doc. 3.) No objections to the R&R have been filed. After careful review of the file and the Magistrate Judge's reasoning, the court adopts the R&R. *See* 28 U.S.C. § 636(b)(1).

As noted in the R&R, Plaintiff first filed this action seeking damages for trespass and unlawful mischief in state court on July 21, 2017. (Doc. 2-1; Doc. 2-2 at 2.) In April 2018, the case was stayed pending related state criminal proceedings. (Doc. 3 at 2.) After the criminal proceeding was dismissed, Plaintiff requested a status conference and pretrial hearing. (*Id.*; Doc. 2-2 at 10.) The pretrial conference was scheduled for September 25, 2020. (Doc. 2-2 at 10.) Defendant filed a Notice of Removal in state court on September 23, 2020, causing the pretrial conference to be canceled, and the Notice was filed in this court on September 28, 2020 (*Id.*)

For the reasons stated in the R&R, this Notice of Removal was untimely under 28 U.S.C. § 1446. This defect in removal procedure is grounds for remand under 28 U.S.C. § 1447(c). As recommended by the R&R, Plaintiff's Motion to Remand (Doc. 2) is GRANTED.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 23rd day of December, 2020.



Geoffrey W. Crawford, Chief Judge
United States District Court